UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JUAN ALONZO-MIRANDA	§	
Plaintiff,	§	
	§	
vs.	§	**CIVIL ACTION NO.**
SCHLUMBERGER TECHNOLOGY	§	**5:13-cv-01057-RCL**
CORPORATION,	§	
Defendant.	§	

REPLY IN SUPPORT OF PLAINTIFF'S OPPOSED MOTION FOR AN AWARD OF REASONABLE FEES AND COSTS

The jury did not share the defendant's splendid contempt for Alonzo-Miranda's claim, so it seeks the consolation of paying a below-market fee to his attorneys. Its response to the fees-and-costs motion is detailed, and calls for this detailed reply. The big picture, which the Court should not forget as it wades through the details, is that the defendant fails completely to account for the principle, cited in the plaintiff's motion, that success is not just a matter of dollars and cents:

> [S]uccess might be considered material if it also accomplished some public goal other than occupying the time and energy of counsel, court, and client. Section 1988 is not "a relief Act for lawyers." *Riverside v. Rivera*, 477 U.S. 561, 588, 106 S. Ct. 2686, 2701, 91 L. Ed. 2d 466 (1986) (REHNQUIST, J., dissenting). Instead, it is a tool that ensures the vindication of important rights, even when large sums of money are not at stake, by making attorney's fees available under a private attorney general theory.

Farrar v. Hobby, 506 U.S. 103, 121, 113 S. Ct. 566, 578, 121 L. Ed. 2d 494 (1992)

(O'Connor, J., concurring), *cited in* Dkt. 163 at 17. This was indisputably a *res nova* case at the intersection of service dogs as an accommodation, PTSD as a disability, and the country's population of grievously wounded service members. By showing the path toward a defendant's liability for failure to accommodate, this case—novel, but not likely to remain unique—indisputably serves the important public goal of helping other PTSD-afflicted veterans (and others) invoke the Americans with Disabilities Act to secure service-dog accommodations for mental disabilities. The defendant's approach would result in a below-market fee award that would discourage future counsel from taking on important but cutting-edge civil rights claims.

1. The Issue of Costs

Defendant's argument about the untimeliness of the cost component of the plaintiff's motion misunderstands the scope of costs that are recoverable as part of the attorney's fee. The Fifth Circuit "has interpreted the 'attorney's fee' allowed by [42 U.S.C. §] 2000e–5(k) [a provision of Title VII, but incorporated into the Americans with Disabilities Act by 42 U.S.C. § 12117(a)] to include 'reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client, in the course of providing legal services,' such as postage, photocopying, paralegal services, long distance telephone charges, and travel costs." *Mota v. Univ. of Texas Houston Health Sci. Ctr.*, 261 F.3d 512, 529 (5th

Cir. 2001).[1] Therefore, when the Court allowed Alonzo-Miranda 28 days to move for fees,[2] it also allowed him 28 days to move for all of the costs that are included in the fee. The defendant extensively discusses what is not taxable *as a cost under 28 U.S.C. § 1920*,[3] but taxability under § 1920 is irrelevant when this Court "has an additional source of authority [namely, § 2000-5(k), via the ADA] for applying attorney's fees and costs." *Mota*, 261 F.3d at 529. Since the defendant has not addressed that *real* issue—whether any of the claimed expenses are not recoverable as part of the fee itself, the motion for which is indisputably timely—the Court should disregard entirely the defendant's complaints about the costs.

Not only has the defendant failed to address that real issue, but all of the costs for which Alonzo-Miranda has requested reimbursement are, indeed, recoverable as part of his attorney's fee (with one exception[4]). For example, with respect to the largest item of plaintiff's costs ($11,512.29, for electronic research), the Fifth Circuit has apparently not addressed the question, but a judge of this Court has. In *DeHoyos v. Allstate Corp.*, 240 F.R.D. 269, 334-35 (W.D. Texas 2007), the court held that the cost of electronic legal research may be recovered as part of a reasonable attorney's fee.[5] Travel expenses (amounting in this case to $3,679.89) are clearly recoverable under *Mota*. Even the items that *are* taxable under § 1920 are *also* recoverable as part of the attorney's fee because they, too, are "'reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client." *Mota*, 261 F.3d at 530.[6] According to Griffin's declaration, "all of the costs for items and services reflected in Exhibit 8 and Exhibit 8A as MGK expenses were actually and necessarily expended. All of these costs are of the type that are normally charged to MGK's fee-paying clients." (Dkt. 163-2 at 9, ¶ 18.) Therefore, the Court would have no basis for holding that the taxable costs are not properly part of this fee motion and should have been requested only in a bill of costs that was due to be filed 14 days after entry of judgment.[7]

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[1] *See also Associated Builders & Contractors of Louisiana, Inc. v. Orleans Parish Sch. Bd.*, 919 F.2d 374, 380 (5th Cir. 1990) ("[a]ll reasonable out-of-pocket expenses, including charges for photocopying, paralegal assistance, travel, and telephone, are plainly recoverable in [42 U.S.C.] section 1988 fee awards because they are part of the costs normally charged to a fee-paying client").

[2] The Judgment provided that "the Plaintiff's motion for attorneys fees, supported by proper affidavit, be filed within 28 days of the entry of this judgment." (Dkt. 161 at 2.)

[3] "Many of the costs sought by Plaintiff (i.e., electronic research, postage, delivery costs, travel, lodging and meal expenses, forensic imaging of Plaintiff's cell phone, and mediation fees) are simply not included in Section 1920's enumerated list." (Dkt. 166 at 5.) And on pages 6-7, the defendant objects to the costs of videotaping the deposition of Jean-Remy Bellanger, editing two other videotaped depositions that were shown at trial, and preparing demonstrative exhibits, as not recoverable under § 1920.

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[4] The one exception is the mediation fee. The defendant argues that the mediation fee is not recoverable under § 1920 (*see supra* note 3), and it is correct: the mediation fee is not recoverable under § 1920. But—even though the defendant fails to point this out—neither is it recoverable as part of the attorney's fee, according to *Mota*. 261 F.3d at 530. Mediation fees seem squarely within the category of "'reasonable out-of-pocket expenses incurred by the attorney which are normally charged to a fee-paying client." *Id.* at 529. Further, other federal courts allow recovery of mediation expenses (*see, e.g.*, *Waldo v. Consumers Energy Co.*, 726 F.3d 802, 827 (6th Cir. 2013)). But *Mota* is binding precedent, so Alonzo-Miranda has withdrawn this item from his request for reimbursement.

[5] *See also Smith v. Tarrant Cnty. Coll. Dist.*, No. 4:09-cv-658-Y, 2010 WL 4063226, at *9 (N.D. Tex. Oct. 13, 2010) (awarding costs for Westlaw under 42 U.S.C. § 1988); *Sorkin v. Universal Bldg. Products Inc.*, No. 1:08-cv-133, 2010 WL 519742, at *7 (E.D. Tex. Feb. 9, 2010) (awarding costs for Westlaw under 35 U.S.C. § 285); *Shepherd v. Dallas Cnty., Tex.*, No. 3:05-cv-1442-D, 2009 WL 977295, at *17 (N.D. Tex. Jan. 22, 2009) (awarding costs for Westlaw under 42 U.S.C. § 1988), *report and recommendation modified on other grounds*, 2009 WL 977294 (N.D. Tex. Apr. 10, 2009).

2. The Hourly Rates

The defendant—without proferring a single sworn declaration from an attorney not associated with this case on what would be a reasonable hourly rate in this market—relies on surveys and other cases. It is correct that "state bar surveys" provide some evidence of reasonable hourly rates, *Miller v. Raytheon Co.*, 716 F.3d 138, 149 (5th Cir. 2013), but these surveys do not fully capture all of the critical elements—skill, experience, and reputation[8]—for setting rates for *real* people. The rate survey cited by the defendant reports only the median hourly rate for attorneys in San Antonio banded by their years of experience: in other words, the hourly rate for a *hypothetical* average attorney in each band. Worse, it reports rates from two years ago. (Dkt. 166-2 at 2.)

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[6] *See also Hutchinson ex rel. Julien v. Patrick*, 636 F.3d 1, 17 (1st Cir. 2011):

> The Commonwealth's challenge to the amount of costs awarded for printing—an expense explicitly listed as taxable under section 1920—is equally unavailing. The ADA's fee-shifting provision clearly includes "costs" as part of an allowable fee award, and in combination with the express terms of section 1920, this renders the Commonwealth's bare assertion that printing costs "have been repeatedly rejected as 'unrecoverable overhead'" wholly unconvincing.

In other words, a cost item may be both taxable under § 1920 and recoverable as part of the attorney's fee.

[7] FED. R. CIV. P. 54(d)(2) refers to a motion "for attorney's fees and related nontaxable expenses," but that does not mean that the expenses included in the fee are only nontaxable expenses. As *Mota* recognized, "[t]he governing substantive law dictates recoverable expenses," 261 F.3d at 529 n.61, not the procedural rule.

The survey does not report any band's upper rates, where the declarations supporting the motion placed Alonzo-Miranda's attorneys because of their skill, experience and reputation in employment law. These declarations provide the only information before the Court that is specific to the real people who represented the plaintiff. The rate survey's generic information says nothing about rates for lawyers with exceptional proficiency in handling disability rights cases. If Alonzo-Miranda's counsel have truly requested rates significantly higher than the local market bears for their skill, experience, and reputation, then it is surprising that the defendant was apparently not able to find a local attorney to say so. Defendant's counsel have not even disclosed their own hourly rates.

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[8] *Blum v. Stenson*, 465 U.S. 886, 892 n.5, 104 S. Ct. 1541, 1545 n.5, 79 L. Ed. 2d 891 (1984).

The defendant also relies on four cases, primarily *Reyes v. Stone*, No. 11-cv-111-DAE, 2014 U.S. Dist. LEXIS 136956, 2014 WL 4851810 (W.D. Texas Sept. 29, 2014). There, Judge Ezra declined to award a requested rate of $300/hour to an attorney who had been licensed since December 2002.[9] Judge Ezra found "$260.00 per hour to be more representative of customary rates for an attorney with Mr. O'Brien's experience." 2014 WL 4851810, at *2. But there is not any indication in the analysis that O'Brien proffered testimony from anyone other than himself (or if he did, Judge Ezra disregarded it). Further, experience is only one-third of what *Blum* directs courts to consider, if even that much, because experience entails not just a lawyer's years in practice, but years doing the kind of cases that resulted in the fee motion. There is no indication in *Reyes* that Judge Ezra would have awarded median hourly rates to Alonzo-Miranda's attorneys despite their above-median skills, relevant experience, and reputations as described in the supporting declarations. For example, according to the defendant, Mr. Griffin should receive $263/hour in 2015 though Mr. O'Brien received $260/hour in 2013. That makes no sense: with no disrespect intended toward Mr. O'Brien, Mr. Griffin is a nationallyknown expert in disability rights law, with more than 30 years of practice.

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[9] State Bar of Texas, entry for Kerry V. O'Brien, available at http://www.texasbar.com/AM/Template.cfm?Section=Find_A_Lawyer&template=/Customsource/MemberDirectory/MemberDirectoryDetail.cfm&ContactID=210202 (last visited May 24, 2015).

The defendant's secondary cases are equally unpersuasive:

- *Martinez v. Bank of Am., N.A.*, No. 12-cv-785-XR, 2013 U.S. Dist. LEXIS 130667, 2013 WL 5173655 (W.D. Texas Sept. 12, 2013): Judge Rodriguez, relying on the 2011 edition of the rate survey—rates that are now four years old—calculated fees for two attorneys at rates ($268/hour and $205/hour) that corresponded with the *statewide* median for attorneys in their years-of-experience band.[10] The court's discussion fails to consider skill and reputation in setting the rates, and fails to focus on the local market.[11] Further, there is not any indication in the analysis that the fee applicants proffered testimony from anyone other than themselves in support of their hourly rates.

- *Saldana v. Zubha Foods, LLC*, No. 13-cv-33-DAE, 2013 U.S. Dist. LEXIS 90785, 2013 WL 3305542 (W.D. Texas June 28, 2013): Plaintiffs' counsel requested $275/hour, and Judge Ezra awarded it: "Plaintiff's counsel attests in his Declaration that his normal rate is $275 per hour, which the Court concludes is reasonable in light of counsel's nearly 20 years of experience and specialization in employment law." Here, the court properly focused on *relevant* experience, but again omitted considering skill and reputation. And, as in *Martinez*, there is not any indication in the analysis that the fee applicants proffered testimony from anyone other than themselves in support of their hourly rates.

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[10] Exh. 1 at page 4, also available at http://www.texasbar.com/AM/Template.cfm?Section=Archives&Template=/CM/ContentDisplay.cfm&ContentID=20499 (last visited May 24, 2015).

[11] *Blum*, 465 U.S. at 895, 104 S. Ct. at 1547 (focusing on "the prevailing market rates in the relevant community").

- *Caldwell Indep. Sch. Dist. v. L.P.*, 994 F. Supp. 2d 811 (W.D. Texas 2012), *aff'd*, 551 Fed. App'x 140 (5th Cir. 2014): Judge Sparks relied on a 2009 edition of the rate survey—rates that are now six years old[12]—as the only evidence of the reasonableness of the requested rates. And, again, there is not any indication in the analysis that the fee applicants proffered testimony from anyone other than themselves in support of their hourly rates.

Thus, all of the defendant's four cited cases rely chiefly on the rate surveys or, like the rate surveys, on some measurement of experience (meaning chiefly years of practice since licensure), without factoring in skill or reputation, and apparently without the benefit of the kind of declarations that support the present request. The declarants supporting the fee motion have done what the rate surveys do not, and the Court should accept their evidence as unrebutted by the defendant.

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[12] Exh. 2, available at https://www.texasbar.com/AM/Template.cfm?Section=Archives&Template=/CM/ContentDisplay.cfm&ContentID=11240 (last visited May 26, 2015).

3. The Number of Hours

The defendant divides its challenge to the number of requested hours into two general categories: work that it concedes was necessary but for which too much time was billed (Dkt. 166 at 12-14), and work that it contends was not necessary at all (*id.* at 14-18).

1. Necessary Work, Excessive Time

The challenges here mostly amount to *ipse dixit* pronouncements of how long something should have taken. *See, e.g.*, *Holbrook v. D.C.*, 305 F. Supp. 2d 41, 46 (D.D.C. 2004) ("[m]oreover, Defendant's objections are simply conclusory assertions regarding the amount of time that Defendant thinks Plaintiffs' counsel "should have spent" on certain documents and litigation tasks"). Further, at least two of the defendant's criticisms are not even based on accurate facts: First, it claims that "[t]he billing records contain approximately 19.5 hours relating to" the depositions of Drs. Dennis, Wyrick and Roach (Dkt. 166 at 13), but in fact Neuerburg recorded only 4.50 hours to prepare the deposition outlines on March 2, 2015, and then 0.75 hour to review and edit them on March 3. (Dkt. 163-4 at 42.) It is not clear what other hours the defendant counted toward a total of 19.50 hours. Second, the defendant claims that the motion includes 58 hours for McKnight to prepare the fee application (Dkt. 166 at 14), but the time records clearly show that he claimed 58 hours of time for all work he performed in the case, and 33.75 hours for the fee application (Dkt. 163-4 at 61-63).

Otherwise, the alleged excessiveness was due, according to the defendant, to spending time in discovery on plaintiff's termination claim; specifically, the defendant mentions six hours for drafting termination-related discovery requests, and 28 hours to prepare for and take the termination-related deposition testimony of plaintiff and Jean-Remy Bellanger. These objections are closely related to the defendant's broader objection about the termination claim, which we discuss below.

2. Unnecessary Work

a. The Termination Claim

The defendant fails to address the motion's point that the termination claim was intertwined with the accommodation claim because anti-disability animus was relevant to both claims. (Dkt. 163 at 9-10.) Therefore, it is simply not accurate for the defendant to proclaim, in a conclusory manner, that discovery aimed at uncovering facts relevant to the termination claim "had nothing to do with the accommodation claim" (Dkt. 166 at 16), and that the associated time should be regarded as non-compensable. As stated in the motion, time spent pursuing the termination claim was not excluded from the lodestar because of that claim's connection with the termination claim, but plaintiff's counsel used a percentage of that time to make a billing-judgment adjustment to the lodestar (Dkt. 163 at 10 &

18-19.)

b. The Accommodation Claim

The defendant contends that the plaintiff unreasonably resisted production of "all of Plaintiff's records relating to his alleged PTSD." (Dkt. 166 at 16.) That is not true: the discovery issue that mainly vexed this case involved the defendant's insistence on getting access to *all* of plaintiff's medical records, not just his PTSD records. This is clear from Defendant's Renewed Motion to Compel Discovery, where one of the subheadings of its argument states that "**MEDICAL RECORDS CANNOT BE LIMITED TO 'PTSD'**." (Dkt. 72 at 6.) The parties eventually resolved this dispute with an agreed order, under which all medical records would be produced without redaction of non-PTSD information, but for defendant's attorney's eyes only. (Dkt. 100.) The defendant could challenge the eyes-only status of a document (or part thereof) if it contained admissible information that the plaintiff had improperly redacted from a parallel production of the same document (i.e., a production that was not eyes-only, but could be admitted into evidence).

Because the parties reached a compromise under which the defendant did not get unfettered use of all of plaintiff's medical records, plaintiff's counsel's time opposing defendant's effort should be fully compensated. Further, the defendant never raised any challenge to the eyes-only status of a document (or part thereof). Thus, all of the time that the defendant spent on getting access to all of plaintiff's medical records yielded it the same information it got in the version that had been redacted as the plaintiff had proposed all along: to show only PTSD-related information. Had the defendant not demanded unrelated and remote medical records, none of this time would have been incurred. The responsibility for this time lies at the feet of the defendant.

c. The Concealed Handgun License Application

The defendant forgets that its own aggressive tactics contributed to the expense of time on this subject. It originally intended to get the application records via subpoena from the Texas Department of Public Safety, but then realized the statutory confidentiality defenses that TDPS and the plaintiff would have been entitled to raise against release of information *not related to PTSD* (the plaintiff never contested discoverabiilty of PTSD records). By then, plaintiff's counsel had already expended 9.75 hours (from September 24 to October 15) in consultations with counsel for TDPS and for defendant, and in researching and preparing a motion to quash the subpoena.

The defendant decided, instead of subpoenaing the records, to accept from the plaintiff a copy of the records that *he* would obtain from TDPS. The parties disputed for some additional time (2.75 hours, between October 27 and November 14) exactly what the plaintiff could redact from those records (Exh. 3 & Exh. MJN-1), but the records eventually admitted at trial as Defendant's Exhibit 40 (Exh. 4) contained essentially the same redactions that Neuerburg offered on October 27 (Exh. 3 & Exh. MJN-1 at 11[13]): all of that additional time was wasted in back-and-forth with the defendant.

d. The Silverman Motion

The defendant's focus on Dr. Silverman's qualifications as an expert ("[t]here was no question regarding Dr. Silverman's qualifications as an expert" (Dkt. 166 at 17)) is misleading, since the plaintiff did not challenge him on that ground. The primary and most significant basis on which the plaintiff *did* object to Dr. Silverman's anticipated testimony involved the plaintiff's diagnosis of PTSD and the effect of PTSD on him at work. (Dkt. 78.[14]) Though the Court denied the motion to exclude, the denial occurred in the context of the defendant's agreement that Dr. Silverman would not testify on whether the plaintiff had PTSD. Thus, the defendant cannot plausibly argue that the motion to exclude was unsuccessful.

Furthermore, the Fifth Circuit in *Abner v. Kansas City S. Rwy. Co.*, 541 F.3d 372 (5th Cir. 2008), affirmed the compensability of time spent on a trial that ended with a hung jury before the case was re-tried and the plaintiff prevailed. "[T]he question of whether a party 'prevailed' and whether a fee award is 'reasonable' is not one to parse too thinly—whether by individual claim or the number of trials required to reach a result." *Id.* at 382. The pertinent question is whether time was spent *reasonably*, not whether it produced a discrete victory or defeat in the long march to the plaintiff's ultimate success.[15] The defendant does not ask or answer that question because, again, it cannot plausibly argue that the motion to exclude Dr. Silverman was unreasonable in light of its decision to limit his testimony in a manner that was consistent with the motion to strike.

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[13] Neuerburg offered the 2008 application with redactions except to Block 2, Block 18, and the executed Knowledge of Laws Affidavit, Authorization for Release of Records, and Eligibility Affidavit.

[14] The motion to exclude Dr. Silverman was filed under seal.

e. The Plaintiff's Motion for Summary Judgment

Here, again, the defendant seems to rely on the denial of the plaintiff's motion for summary judgment on his accommodation claim as the sole basis for deleting the time to prepare it. The motion addressed, as predicate issues, the plaintiff's qualification to perform his job and his disability. (Dkt. 48 at 2.) The Report and Recommendation noted that there was apparently no dispute as to those issues. (Dkt. 103 at 6.) That is why filing the motion was reasonable: it helped the plaintiff find out what the defendant did and did not dispute concerning his accommodation claim.

Later, the plaintiff asked the Court to clarify whether the defendant's failure

[15] "[T]he district court followed what the Supreme Court has instructed courts to do in *Hensley* [*v. Eckerhart*, 461 U.S. 424 (1983)]: it cut out the fees charged for work on unsuccessful claims and for any other work that it deemed unreasonable." *Abner*, 541 F.3d at 383.

to dispute the plaintiff's disability established his disability as a matter of law (a dispute over *another* element is what precluded summary judgment on the accommodation claim), since the parties could not agree on the effect of the summary judgment ruling on this extremely important issue. (Dkt. 116 at 3.) To ask for clarification, which the defendant criticizes as unnecessary, was an extremely reasonable step to take, and resulted in the Court's issuance of a clarification that the issue remained for trial. (Dkt. 140 at 4-5.)

4. The *Johnson* Factors

The defendant's analysis of the *Johnson* factors mostly rehashes considerations that have already been accounted for in calculating the lodestar:

- The time and labor required are already reflected in the reasonable hours that are documented *with evidence*. (Dkt. 163 at 15.) The four entirely unrelated cases that the defendant cites are not *evidence* of the time and labor that *this case* required, nor do they provide market rates for 2015.

- The novelty and difficulty of the case, and skills required to present it successfully, are also reflected in the reasonable hours and in the hourly rate. (Dkt. 163 at 15.) The defendant contends that no one else—not even the EEOC—would represent the plaintiff "because he had no damages." (Dkt. 166 at 14.) But the EEOC is not known for shying away from low-damages cases; and if it is true that other lawyers declined to represent the plaintiff, a better explanation is that the case presented a legally novel and a factually difficult accommodation issue.

While the defendant can comment on the plaintiff's degree of success (Dkt. 166 at 20-22), it fails completely—as noted at the beginning of this reply—to account for the principle that success in civil rights cases is not just a matter of dollars and cents. Further, the comparator case on which it relies so heavily, *Migis v. Pearle Vision, Inc.*, 135 F.3d 1041 (5th Cir. 1998), is not very similar. There is no indication of any novel issue, *and* the plaintiff brought four claims, proceeded to trial on two, and prevailed on only one. *Id.* at 1048. Alonzo-Miranda, on the other hand, brought two claims, with the second added only after the litigation started. After that claim went away on summary judgment, he proceeded to trial on the one claim he brought originally, and he prevailed on it. Thus, the defendant was faced at the end with exactly the same case as at the beginning: one in which Alonzo-Miranda fully succeeded.

The defendant contends that the plaintiff's motion "simply multipl[ies] the number of hours spent on the case by an hourly rate" (Dkt. 166 at 22), but that is not true: a lodestar reduction is clearly documented in the motion. (Dkt. 163 at 18-19.) With respect to the other cases that the defendant cites as guidelines for the fees-to-damages ratio that should apply here, they also, like *Migis*, exhibited no novel issue that set an example for other litigants to follow in vindicating a civil rights statute.[16]

Conclusion

Alonzo-Miranda has filed separately a supplemental motion to account for the fees incurred in responding to the defendant's motion for judgment as a matter of law or new trial (Dkt. 162 & 166), and for replying in support of the instant motion. The supplemental motion also adjusts the costs to subtract the mediation fee (*see supra* note 4). The Court should award the fees and costs as originally requested, with only these adjustments. The defendant's approach, based on outdated and generic rate surveys, and lacking a single sworn declaration that squarely addresses the skill, experience, and reputation of the plaintiff's counsel, would result in a below-market fee award that would discourage future counsel from taking on cutting-edge civil rights claims.

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[16] The defendant also fails to mention that the opinion in *Uviedo v. Steves Sash & Door* was superseded by one on rehearing (753 F.2d 369 (5th Cir. 1985)), which allowed for the possibility of fees.

Date: May 26, 2015

Respectfully submitted,

Juan Alonzo-Miranda,
By his attorneys,

/s/John W. Griffin, Jr.
John W. Griffin, Jr.
Texas Bar No. 08460300
203 North Liberty Street
Victoria, Texas 77901
(361) 573-5500 – Telephone
(361) 573-5040 – Telecopier
jwg@lawmgk.com

Oscar H. Villarreal
LUTTREL ZUCKER LAW GROUP
Texas Bar No. 20583900
400 N. Loop 1604 E.
Afton Oaks, Ste. 208
San Antonio, Texas 78232
(210) 426-3600 – Telephone
(210) 426-3610 – Fax

Counsel for the Plaintiff

Certificate of Service

I certify that a true and correct copy of this document has been served upon the defendant via the electronic filing system of the United States District Court for the Western District of Texas on May 26, 2015.

William L. Davis
davisw@jacksonlewis.com
JACKSON LEWIS P.C.
500 N. Akard, Suite 2500
Dallas, Texas 75201

/s/ John W. Griffin, Jr.
John W. Griffin, Jr.